

## REMARKS

Claims 1-20 are pending in the application.  
Claims 1-8 and 19 are withdrawn from consideration.  
Claims 9-18 and 20 are rejected.  
Claims 9-18 and 20 are rejected under 35 U.S.C. 103(a).  
Claims 9 and 20 are currently amended.  
No new matter is added.  
Claims 9-18 and 20 remain in the case for consideration.  
Applicant requests reconsideration and allowance of the claims in light of the above amendments and following remarks.

*Claim Rejections – 35 U.S.C. § 103*

Claims 9-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al., U.S. Patent No. 5,933,730 ("Sun"), and in view of Sato, U.S. Patent No. 6,232,179 ("Sato").

Applicant respectfully traverses the rejection.

Claims 9 and 20 are amended to recite "etching the second gate spacers until a surface of the gate stack structures is exposed." Support for this amendment can be found at least in FIG. 4E-4F, and page 8, lines 21-23.

However, Sun does not teach or suggest "etching second gate spacers until a surface of a gate stack structure is exposed," as recited in amended claim 1. Sun shows (FIGS. 9J-9K) second spacer oxide 730 covering completely stacked gates 700a and 700b. Sun does not teach or disclose exposing stacked gates by etching a second gate spacer.

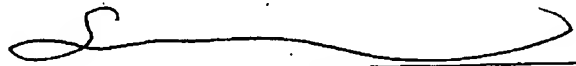
At least for the reasons discussed above, the cited references, either alone or in combination, do not teach or suggest all of the limitations of claims 9 and 20. Accordingly, applicants assert that the rejection does not present a *prima facie* case of obviousness, and claims 9 and 20 are allowable.

Claims 10-18 depend from claim 9 and inherently include all of the limitations of the base claim. As discussed above, the prior art does not teach the limitations of the base claim much less the further embodiments of the dependent claim.

For the foregoing reasons, reconsideration and allowance of claims 9-18 and 20 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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Limited Recognition Under 37 CFR § 10.9(b)

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(703) 872-9306 on April 5, 2005.



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